

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT L. MURRAY,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

24-CV-3758 (JGLC) (SDA)

ORDER OF DISMISSAL

JESSICA G. L. CLARKE, United States District Judge:

Plaintiff Robert Murray filed this action, *pro se*, alleging violations of his constitutional rights while incarcerated pursuant to 42 U.S.C. § 1983. ECF No. 1. On June 4, 2024, this Court referred this action to Magistrate Judge Stewart D. Aaron for general pretrial and dispositive motion purposes. ECF No. 6. On January 17, 2025, Defendants filed a motion to revoke Plaintiff's *in forma pauperis* ("IFP") status. *See* ECF Nos. 37–39. In a Report and Recommendation filed on March 3, 2025, Magistrate Judge Aaron recommended that the motion be granted. *See* ECF No. 43 (the "R&R"). On April 4, 2025, this Court adopted the R&R in its entirety. ECF No. 44. Thereafter, Magistrate Judge Aaron ordered Plaintiff to pay the requisite \$405.00 filing fee on or before April 28, 2025, and warned that a failure to do so would result in this action being dismissed without prejudice. ECF No. 45.

Federal Rule of Civil Procedure 41(b) permits the Court to dismiss an action, without prejudice, where a plaintiff fails to prosecute the action or comply with a court order. Although the language of Rule 41(b) is permissive and merely authorizes a motion by defendants, the Second Circuit has observed that a court may dismiss a case pursuant to Rule 41(b) *sua sponte*. *See, e.g., Lyell Theatre Corp. v. Loews Corp.*, 682 F.2d 37, 42 (2d Cir. 1982); *accord Storey v. O'Brien*, 482 F. App'x 647, 648 (2d Cir. 2012). The deadline for the Plaintiff to pay the requisite filing fee has long passed. No filing fee has been received to date, nor has Plaintiff requested any

extension of this deadline. Therefore, the Court dismisses this action without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Clerk of Court is respectfully directed to close this case, and to mail a copy of this Order to Plaintiff as well as Cynthia Turnipseed at 758 Pelham Pkwy, Apt. 4F, Brooklyn, NY 10462.

Dated: May 28, 2025
New York, New York

SO ORDERED.

A handwritten signature in blue ink that reads "Jessica Clarke". The signature is written in a cursive style and is positioned above a horizontal line.

JESSICA G. L. CLARKE
United States District Judge